

# BANKER & TRADESMAN

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DECODING THE CODE

## Cutting Red Tape: How Regulatory Reform Is Working in Mass. Government Is Functioning Just Fine

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SPECIAL TO BANKER & TRADESMAN

People love to complain about government.

But sometimes streamlining happens. Regulations are simplified, compliance is made easier. Occasionally the rules even change – for the better.

When that happens, the taxpaying public should know about it. As developers of affordable housing for seniors and others in Massachusetts, we recently had a salutary experience that we discovered was part of a sweeping initiative by the Patrick administration to make state government more responsive.



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Our task to overcome a balky regulation started almost literally in the sewer.

Not a glamorous subject. But buried deep in the Department of Environmental Protection's alphabet soup of wastewater codes was one that we and our consulting engineers thought was unnecessarily burdensome. In short, the state had set the estimate for wastewater for standard residences at 110 gallons per bedroom per day, requiring septic systems to accommodate that amount – but the standard for senior housing approved several years ago was a higher threshold (150 gallons per unit). The effect was that it was more expensive to develop a modest-sized age-restricted unit for a senior than it was for that identical unit without such restriction.

Sewer systems are necessary infrastructure to support meaningful growth, and some towns will simply not go there. But in this case it was the regulation itself that created a hurdle. Its effect was to significantly limit the size of these needed affordable housing developments in areas where they are most needed – suburban communities short of se-



nior housing and typically relying on private wastewater systems.

We raised the issue with the Department of Environmental Protection's wastewater team. To the state's credit, our arguments were welcomed and evaluated. Our suggestion, to eliminate a regulation that made no sense, was incorporated into a statewide undertaking to streamline the tens of thousands of state regulations that have accumulated over the decades.

Massachusetts Regulatory Reform is the rather uninspiring title for a set of little-noticed but remarkable changes taking place throughout Massachusetts state government over the last couple of years.

### Pilot Program

It started as a pilot program in Environmental Protection, but now more than 60 of the 162 existing state agencies have made progress, after being told by Gov. Patrick to review their regulations. "We need to take a close look at the barriers that get in the way of doing business in Massachusetts – many of which come from state government," Gov. Patrick said in a speech in Cambridge about a year ago. "As we work to improve our regulatory climate, our aim is to strike the right balance between protecting consumers and the environment and enabling innovators to start and grow businesses here."

Part of this effort was driven by necessity. The economy was dismal, and state budgets were shrinking. At DEP alone, by 2010 the

state's workforce shrank from 1,200 to 800 employees.

Now, well into the program, though it is a relatively well-kept secret, half of all the thousands of state regulations have been reviewed, and the rest will be by 2014.

A total of 278 regulatory reforms have been proposed and are being reviewed and implemented. As a result of related proposed changes to state laws, the state boards that review cosmetology and barbers are to be combined. There will be no licensing of TV repairmen anymore – that was a big industry in the 1960s, but who repairs televisions these days? Sewer extensions or connections for new development used to require both state and local review; now they are to be approved at the local level and only to go state review if there is an appeal.

Twenty-one of the 278 regulatory changes were in the Department of Environmental Protection – and one of those relates to our particular situation.

Because of this sensible change, now in late stages of review, developers can design 90-room senior housing communities, accommodating that many more older citizens looking for affordable places to live in their long time communities. Under the old regulation, the limit was 66. Exceeding that would have added some \$750,000 to project cost for an expensive wastewater treatment system.

Government is working better today in Massachusetts than it ever has, and with the passage of these regulatory reforms it will be even better. And who needs glamour anyway? ■

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